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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,938	11/20/2003	Thomas A. Trabold	8540G-000180	9011

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EXAMINER

MAPLES, JOHN S

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/717,938	Applicant(s) TRABOLD, THOMAS A.	
	Examiner John S. Maples	Art Unit 1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 ~~is/are~~ are pending in the application.
- 4a) Of the above claim(s) 18-28 ~~is/are~~ are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 ~~is/are~~ are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1745

1. Claims 18-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 13, 2006.

2. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanemoto et al.-US 6,395,416. (Tanemoto)

Reference is made to Figures 1-2 and 5 in Tanemoto along with the Abstract and column 1, line 10 through column 2, line 51; column 7, line 57 through column 8, line 4 and Table 2. These portions of Tanemoto disclose a fuel cell including an electrically

Art Unit: 1745

conductive member-a separator 101 that is formed of an epoxy resin having graphite particles therein.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7-9 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanemoto in view of Swathirajan et al.-US 5,272,017. (Swathirajan)

The only claimed feature not shown by Tanemoto is the carbon cloth gas diffusion medium. The patent to Swathirajan shows a carbon cloth gas diffusion medium 30, 32 in a fuel cell system as seen in Figure 1 therein and in column 3, line 53 through column 4, line 8. To have included the carbon cloth medium of Swathirajan in the fuel cell of Tanemoto would have been obvious to one of ordinary skill in this art to enable current from the fuel cell to be collected in a more efficient manner.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanemoto in view of Yamada et al.-US 6,500,893. (Yamada)

Tanemoto teaches all of the claimed subject matter of claim 10 except for the equal amounts of the resin and the graphite. Yamada teaches a fuel cell separator that is manufactured by extrusion (column 8) and which separator may comprise equal amounts of resin and graphite-see the Abstract and column 8, lines 10-39. To have included in Tanemoto the ingredients of the separator of Yamada would have resulted in a cost savings manufacturing step.

Art Unit: 1745

8. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanemoto in view of Swathirajan and McManus et al.-US 2003/0198857.

(McManus)


The combination of Tanemoto and Swathirajan teach all of the claimed subject matter except for the lands of the separator being of varying heights. McManus show in Figures 5, 6, 8, 9 and in paragraphs 0034-0042 a separator in a fuel cell composed of lands of varying heights. To include in the fuel cell of Tanemoto the separator of McManus would have been obvious because the same would aid in the sealing of the fuel cell assembly when compressed in a final assembly step.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Maples whose telephone number is 571-272-1287. The examiner can normally be reached on Monday-Thursday, 6:15-3:45, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1745

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JOHN S. MAPLES
PRIMARY EXAMINER

JSM/1-25-2006